



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**Order 98-8-26  
Served: Aug. 20, 1998**

Issued by the Department of Transportation  
on the 20<sup>th</sup> day of August, 1998

Application of

**SCANDINAVIAN AIRLINES SYSTEM**

for an exemption from Subparts K and S of Part 93  
of Title 14, Code of Federal Regulations pursuant  
to 49 U.S.C. § 41714(b)(1)

**Docket OST-98-4021**

**ORDER GRANTING EXEMPTION**

**APPLICATION**

On July 6, 1998, Scandinavian Airlines System (SAS) requested an exemption from 14 C.F.R. Part 93, Subparts K and S, under 49 U.S.C. § 41714(b)(1), to the extent necessary to enable it to introduce a new daily nonstop, round-trip flight between Stockholm, Sweden and Chicago, Illinois (O'Hare International Airport), using Boeing B-767 equipment (a Stage 3 aircraft). SAS requests one slot exemption to accommodate an O'Hare arrival at 5:40 P.M. The departing flight would be outside slot-controlled hours. SAS hopes to commence these operations on or about October 25, 1998, and continue them through the 1998/99 winter season<sup>1</sup>. The City of Chicago (Chicago) filed a motion for leave to file an answer in support of the SAS application. We will grant the motion.

In support of its request, SAS states that it had made a timely request for the additional slot with the Federal Aviation Administration (FAA) on May 14, 1998 for the 1998/99 winter season, but in late June the FAA notified the carrier that SAS's request, along with those of other carriers, exceeded the number of slots that FAA could allocate.<sup>2</sup> SAS currently provides one daily round trip flight between Copenhagen and Chicago (O'Hare) during slot-controlled hours. Grant of the requested slot exemption would permit SAS to shift its existing Copenhagen service to a late

---

<sup>1</sup> The winter season begins October 25, 1998 and ends April 3, 1999.

<sup>2</sup> In June 1998, the FAA informally notified SAS that its request for one new slot was likely to be denied due to the number of new requests received.

evening departure and allow the new Stockholm service to occupy the afternoon arrival/departure slots currently used for the Copenhagen service.<sup>3</sup> SAS asserts that its service will be enhanced by the alliance between SAS, a hub carrier at Stockholm and Copenhagen, and United, a hub carrier at O'Hare, and that the scheduling of its proposed new service and the rescheduling of its existing Copenhagen service will allow passengers at both O'Hare and Copenhagen to spend a greater portion of the workday on the ground before departure. Finally, SAS argues that the grant of its application would add new nonstop competition in the Chicago-Stockholm market and therefore would advance the objectives of the U.S.-Denmark/Sweden/Norway Open Skies Agreements. The City of Chicago endorses many of the arguments made by SAS and also asserts that recent high load factors in the Chicago-Scandinavia markets indicate the need for additional services. Chicago also notes that the SAS slot exemption request is similar to those of other foreign carriers recently approved by the Department.

## **STATUTORY BACKGROUND**

Subparts K and S of 14 C.F.R. Part 93 designate Chicago's O'Hare International Airport, New York's John F. Kennedy International and LaGuardia Airports, and Ronald Reagan Washington National Airport as high density traffic airports and prescribe certain air traffic rules for the operation of aircraft at these airports. These regulations limit the number of allocated Instrument Flight Rule (IFR) operations (takeoffs and landings) for specified classes of users during certain periods of the day.

Pursuant to 49 U.S.C. § 41714(b)(1), the Secretary of Transportation may, by order, grant exemptions from the requirements of Subparts K and S of 14 C.F.R. Part 93 (pertaining to slots at high density airports other than National), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft, if he finds such action to be in the public interest.

## **DECISION**

We will grant SAS an exemption to enable it to perform one daily Copenhagen-Chicago scheduled flight late afternoon arrival at O'Hare during the 1998/99 winter season. We find that grant of this exemption authority is consistent with the public interest.

Grant of this application will facilitate the introduction of new daily service to Stockholm while preserving existing daily service to Copenhagen, and will expand capacity and broaden the range of travel times available to passengers between Chicago and Scandinavia. Grant of this application is also consistent with the objectives of the bilateral air services agreements between the U.S. and Denmark/Sweden/Norway which contemplate access to the market for carriers of either nation.

In reaching our decision, we recognize that SAS filed a timely request with the FAA for this additional slot, and that due to hourly constraints the FAA has not been able to accommodate the applicant's request within the requested time frame. Moreover, we note that aviation relations with SAS are governed by the U.S.-Denmark/Sweden/Norway Air Transport Agreement, which provides for the proposed Stockholm-Chicago service, and that SAS has been properly authorized

---

<sup>3</sup> The current Chicago-Copenhagen service utilizes a 12:10 P.M. arrival slot and a 4:30 P.M. departure slot at O'Hare. Grant of the exemption would permit a 5:40 P.M. arrival (from Copenhagen) and a 10:05 P.M. departure (to Copenhagen), the latter falling outside the period of restricted operations at the airport.

by its government to provide scheduled foreign air transportation in the Stockholm-Chicago market.<sup>4</sup>

As we have affirmed,<sup>5</sup> while 49 U.S.C. § 41714(b)(1) provides the Department with discretionary authority to grant slot exemptions for foreign air transportation at a high density airport, we do not view this authority as a substitute mechanism for the slot-allocation procedures outlined in Subpart S of 14 C.F.R. Part 93. We fully expect air carriers and foreign air carriers to follow and exhaust all appropriate procedures for slot acquisition, including all appropriate industry practices for slot acquisition, before filing a slot exemption request with the Department. In this case, SAS followed those standard slot-allocation procedures.

Since grant of this exemption authority is dependent upon the applicant's existing U.S.-Denmark/Sweden/Norway operating authority, we attach the condition that this exemption authority be used only in the provision of SAS's scheduled service between Copenhagen and Chicago O'Hare. Furthermore, in accordance with the requirements of the statute, all aircraft operations performed under this exemption shall be conducted by Stage 3 aircraft. We also note that grant of this exemption provides SAS with only a temporary slot allocation at O'Hare Airport and does not confer to the applicant any ability to sell, trade, transfer, or convey the authority.

This Order is issued under authority delegated in 49 C.F.R. 1.56(l).

#### **ACCORDINGLY,**

1. The Department grants a temporary exemption from 14 C.F.R. Part 93, Subparts K and S under 49 U.S.C. 41714(b)(1) to Scandinavian Airlines System to the extent necessary to enable it to operate one daily scheduled arrival at Chicago's O'Hare International Airport between 5:15 P.M. and 5:44 P.M. (local time) in a pattern to be determined in consultation between Scandinavian Airlines System and the Slot Administration Office, FAA;
2. As a condition of approval, Scandinavian Airlines System may use this exemption authority only to provide scheduled service between Copenhagen, Denmark, and the terminal point Chicago, Illinois (O'Hare International Airport);
3. As a further condition of approval, the Department directs that all aircraft operations granted under this exemption must be provided by Stage 3 aircraft;
4. The authority granted under this exemption is subject to all of the other requirements delineated in 14 C.F.R. Part 93, Subparts K and S;
5. We direct Scandinavian Airlines System to contact the Federal Aviation Administration's Slot Administration Office in order to determine the start-up date in consultation with that Office

---

<sup>4</sup> While our findings in this matter will allow for the improvement of services in the Stockholm-Chicago market, we emphasize that airline requests for exemption authority will be decided by the Department on a case-by-case basis.

<sup>5</sup> See Orders 97-4-1 at 4 and 97-3-31 at 5.

for the single exemption granted here. The Federal Aviation Administration will assign a slot withdrawal number for the slot exemption time listed in ordering paragraph 1;

6. The temporary slot allocation provided for in ordering paragraph 1 above is effective commencing on October 25, 1998, and expires on April 3, 1999;

7. We will serve this order on the Ambassadors of Sweden, Denmark, and Norway in Washington, D.C.; the City of Chicago; Scandinavian Airlines System, the Department of State (Office of Aviation Negotiations); and all other parties served with the application; and

8. We grant all motions to file otherwise unauthorized documents.

By:

**CHARLES A. HUNNICUTT**  
Assistant Secretary for Aviation  
and International Affairs

**(SEAL)**

*An electronic version of this document will be made available on the World Wide Web at:  
<http://dms.dot.gov/general/orders/aviation.html>*